

10/009,306

BB46457USA

REMARKS

Claims 58-77 are currently pending in the subject application and are presently under consideration. Claims 76 and 77 have been cancelled herein. Claims 58, 61, 72, 73, and 75 have been amended herein to more clearly set forth aspects previously presented in the claims and supported by the specification, such that no new matter has been introduced into the claims. Accordingly, no further search by the Examiner is believed to be necessary, and entry of the subject amendments is respectfully requested. A marked-up version of all pending claims is found at pages 2-6 of this Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 58-60, 63-68, 70-75 and 77 Under 35 U.S.C. §102(b)

Claims 58-60, 63-68, 70-75 and 77 stand rejected under 35 U.S.C. §102(b) as being anticipated by Ohmi *et al.* (U.S. Patent 5,762,217). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claim 77 has been cancelled herein. Furthermore, Ohmi *et al.* does not describe each and every element of applicant's invention as set forth in the subject claims.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The present invention relates generally to container closures, and in particular to container closures for pressurized products, such as pressurized beverages. Independent claim 58 has been amended to recite "A container closure assembly, comprising a container mouth and a closure therefor, the closure has a top portion with a plurality of segmented lugs depending there from, each of which has a plurality of vertical ridges,

10/009,306

BB46457USA

the closure comprising an engagement device configured for interlocking with a formation around the mouth to retain the closure on the mouth, and a band for bracing the engagement device to lock it in an engaged condition by resisting outward movement of the engagement device when the band is in a bracing position..." Independent claims 72 and 73 have been amended to recite similar aspects. Such aspects of independent claims 58, 72, and 73 are supported by the specification at, for example, page 7, lines 11-25, and Figures 1-3. Furthermore, such aspects were recited in the claims prior to amendment: for example, claim 61 (ridges) and claim 73 (segments), *etc.* As illustrated in Figures 1-3, the closure comprises a top portion having lug segments that depend therefrom, each lug segment having a plurality of vertical ridges thereon that face outwardly toward a retaining band. Ohmi *et al.* does not describe such aspects of the applicant's invention.

As stated by the Examiner, Ohmi *et al.* does not teach a plurality of ridges on the surface of the closure facing the band. Although the Examiner, *via* a §103(a) rejection addressed *infra*, asserts that Grussen teaches ridges on the closure surface, such ridges are not vertical, but rather are horizontal to provide a gripping surface for a user's thumb (*see, e.g.,* Figure 2), and thus do not provide the functionality and/or the benefit of the plurality of ridges set forth in the subject claims.

In view of the foregoing, it is respectfully submitted that Ohmi *et al.* does not anticipate or make obvious the present invention as set forth in independent claims 58, 72, and 73 (and claims 59-60, 63-68, 70, 71, 74, and 75, which depend respectively therefrom). Accordingly, withdrawal of this rejection is respectfully requested.

II. Rejection of Claims 58-60, 63-68, 70-75 and 77 Under 35 U.S.C. §102(b)

Claims 58-60, 63-68, 70-75 and 77 stand rejected under 35 U.S.C. §102(b) as being anticipated by Bosl, *et al.* (U.S. Patent 6,116,444). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claim 77 has been cancelled herein. Furthermore, Bosl *et al.* does not describe each and every element of applicant's invention as set forth in the subject claims.

10/009,306

BB46457USA

Independent claim 58 has been amended to recite "A container closure assembly, comprising a container mouth and a closure therefor, the closure has a top portion with a plurality of segmented lugs depending there from, each of which has a plurality of vertical ridges, the closure comprising an engagement device configured for interlocking with a formation around the mouth to retain the closure on the mouth, and a band for bracing the engagement device to lock it in an engaged condition by resisting outward movement of the engagement device when the band is in a bracing position..."

Independent claims 72 and 73 have been amended to set forth similar aspects, which are supported by the specification at, for example, page 7, lines 11-25, and Figures 1-3.

Furthermore, such aspects were recited in the claims prior to amendment: for example, claim 61 (ridges) and claim 73 (segments), *etc.* As illustrated in Figures 1-3, the closure comprises a top portion having lug segments that depend there from, each lug segment having a plurality of vertical ridges thereon that face outwardly toward a retaining band. Bosl *et al.* does not describe such aspects of the applicant's invention.

As stated by the Examiner, Bosl *et al.* does not teach a plurality of ridges on the surface of the closure facing the band. Although the Examiner, *via* a §103(a) rejection addressed *infra*, asserts that Grussen teaches ridges on the closure surface, such ridges are not vertical and are not positioned on each of a plurality of lug segments, but rather are horizontal and localized to provide a gripping surface for a user's thumb (*see, e.g.*, Figure 2), and thus do not provide the functionality and/or the benefit of the plurality of ridges set forth in the subject claims.

In view of the foregoing, it is respectfully submitted that Bosl *et al.* does not anticipate or make obvious the present invention as set forth in independent claims 58, 72, and 73 (and claims 59-60, 63-68, 70, 71, 74, and 75, which depend respectively there from). Accordingly, withdrawal of this rejection is respectfully requested.

III. Rejection of Claim 62 Under 35 U.S.C. § 103(a)

Claim 62 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Ohmi *et al.* (U.S. Patent 5,762,217). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Ohmi *et al.* does not teach or suggest every element of the

10/009,306

BB46457USA

subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*. See MPEP §706.02(j). The *teaching or suggestion to make the claimed combination* and the reasonable expectation of success *must both be found in the prior art and not based on applicant's disclosure*. See *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

As discussed *supra* with respect to Section I, Ohmi *et al.* does not make obvious the claimed aspects of a plurality of lug segments, each of which has a plurality of vertical ridges positioned thereon, as set forth in independent claim 58. In view of such, Ohmi *et al.* does not make obvious claim 62, which depends from claim 58. Therefore, withdrawal of this rejection is respectfully requested.

IV. Rejection of Claim 62 Under 35 U.S.C. § 103(a)

Claim 62 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bosl, *et al.* (U.S. Patent 6,116,444). It is respectfully requested that this rejection be withdrawn for at least the following reasons. As stated *supra* with regard to Section II, Bosl *et al.* does not make obvious the claimed aspects of a plurality of lug segments, each of which has a plurality of vertical ridges positioned thereon, as set forth in independent claim 58. In view of such, Bosl *et al.* does not make obvious claim 62, which depends from claim 58. This rejection should be withdrawn.

V. Rejection of Claims 61 and 76 Under 35 U.S.C. § 103(a)

Claims 61 and 76 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ohmi *et al.* (U.S. Patent 5,762,217) in view of Grussen (U.S. Re. 27,648). It is respectfully

10/009,306

BB46457USA

requested that this rejection be withdrawn for at least the following reasons. Claim 76 has been cancelled herein. Furthermore, neither Ohmi *et al.* nor Grussen, alone or in combination, teach or suggest every aspect of applicant's invention as set forth in the subject claims.

Ohmi *et al.* does not teach or suggest a plurality of lug segments, each of which has a plurality of vertical ridges positioned thereon, as set forth in independent claim 58, from which claim 61 depends. Grussen fails to overcome the deficiencies of Ohmi *et al.* with respect to independent claim 58. Specifically, Grussen discusses only a local region of horizontal ridges to provide a gripping area for a user's thumb. As such, it is respectfully submitted that neither Ohmi *et al.* nor Grussen, alone or in combination, teach or suggest every aspect of applicant's invention as set forth in the subject claims. Accordingly, this rejection should be withdrawn.

VI. Rejection of Claims 61 and 76 Under 35 U.S.C. § 103(a)

Claims 61 and 76 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bosl *et al.* (U.S. Patent 6,116,444) in view of Grussen (U.S. Re. 27,648). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claim 76 has been cancelled herein. Furthermore, neither Bosl *et al.* nor Grussen, alone or in combination, teach or suggest every aspect of applicant's invention as set forth in the subject claims.

As set forth *supra* in Section II, Bosl *et al.* does not teach or suggest a plurality of lug segments having a plurality of vertical ridges positioned thereon, as set forth in independent claims 58, from which claim 61 depends. Grussen fails to overcome the deficiencies of Bosl *et al.* with respect to independent claim 58. Specifically, Grussen discusses only a local region of horizontal ridges to provide a gripping area for a user's thumb. As such, it is readily apparent that neither Bosl *et al.* nor Grussen, alone or in combination, teach or suggest every aspect of applicant's invention as set forth in the subject claims. Accordingly, this rejection should be withdrawn.

VI. Rejection of Claim 69 Under 35 U.S.C. § 103(a)

Claim 69 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Ohmi *et*

10/009,306

BB46457USA

al. (U.S. Patent 5,762,217) in view of Bean (U.S. Patent 4,216,872). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Neither Ohmi *et al.* nor Bean, alone or in combination, teach or suggest every aspect of applicant's invention as set forth in the subject claims.

As stated *supra* in Section I, Ohmi *et al.* does not teach or suggest a plurality of lug segments, each of which comprises a plurality of vertical ridges, as set forth in independent claim 58, from which claim 68 depends. Bean fails to overcome the deficiencies of Ohmi *et al.* with respect to independent claim 58. Specifically, Bean does not teach or suggest a plurality of ridges on each of a plurality of wall segments.

In view of at least the foregoing, neither Ohmi *et al.* nor Bean, alone or in combination, teach or suggest every aspect of applicant's invention as set forth in the subject claim. This rejection should be withdrawn.

VI. Rejection of Claim 69 Under 35 U.S.C. § 103(a)

Claim 69 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bosl *et al.* (U.S. Patent 6,116,444) in view of Bean (U.S. Patent 4,216,872). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Neither Bosl *et al.* nor Bean, alone or in combination, teach or suggest every aspect of applicant's invention as set forth in the subject claims.

As stated *supra* in Section II, Bosl *et al.* does not teach or suggest a plurality of lug segments, each of which comprises a plurality of vertical ridges, as set forth in independent claim 58, from which claim 68 depends. Bean fails to overcome the deficiencies of Bosl *et al.* with respect to independent claim 58. Specifically, Bean does not teach or suggest a plurality of ridges on each of a plurality of wall segments. Therefore, neither Bosl *et al.* nor Bean, alone or in combination, teach or suggest every aspect of applicant's invention as set forth in claim 69. Accordingly, it is respectfully submitted that this rejection should be withdrawn.

10/009,306

BB46457USA

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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